IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

WHITNEY CSUKARDI,	)
Plaintiff	)
	)
v.	) **Civil Action No. ________________**
	)
PLATINUM CORRAL, LLC,	)
***d/b/a* Golden Corral,**	)
Defendant.	)

COMPLAINT

Plaintiff Whitney Csukardi ("Csukardi"), by counsel, hereby institutes this action against Defendant Platinum Corral, LLC, *d/b/a* Golden Corral ("Platinum Corral" or "Golden Corral") for declaratory relief, injunctive relief, monetary damages, and to address deprivation of rights secured by the American with Disabilities Act (the "ADA"), as amended.

JURISDICTION AND VENUE

1. This action presents an issue arising under federal law, and therefore this Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, and more particularly pursuant to ADA Section 107, 42 U.S.C. § 12117, which incorporates by reference Section 706 of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), 42 U.S.C. §§2000e-5 *et seq.*

2. Venue is proper in the Lynchburg Division of the Western District of Virginia because all of the acts complained of herein occurred in Lynchburg, Virginia.

ADMINISTRATIVE PROCEDURE

3. Plaintiff timely filed a Charge of Discrimination with the United States Equal Employment Opportunity Commission ("EEOC") on or about March 13, 2015, which the EEOC backdated to January 28, 2013, alleging discrimination and retaliation on account of her disability.

4. Plaintiff timely filed a second Charge of Discrimination with the EEOC on or about April 13, 2015 alleging retaliation on account of her disability.

5. Plaintiff has exhausted all administrative procedures and filed this Complaint within 90 days of receiving notice that the EEOC issued Notice of Rights letters; the first letter was issued on July 20, 2016, and the second letter was issued on July 25, 2016.

THE PARTIES

6. Plaintiff Csukardi is, and at all times relevant herein was a citizen of the United States and a resident of the Western District of Virginia. At all times relevant herein Csukardi was an employee of Platinum Corral working at its restaurant, Golden Corral, located in Lynchburg, Virginia, as a server.

7. At all times material hereto, Platinum Corral employed Csukardi and employed/employs 15 or more persons, and was/is an "employer" within the meaning of ADA Section 101(5)(A), 42 U.S.C. § 12111(5)(A), and is engaged in an industry affecting commerce within the meaning of ADA Section 101(7), 42 U.S.C. § 12111(7), and Title VII, Section 701, 42 U.S.C. § 2000e. Platinum Corral owns and operates a restaurant, Golden Corral, located in the Western District of Virginia, more specifically in Lynchburg, where Csukardi worked/works.

FACTS

8. The previous paragraphs are incorporated and re-alleged as if fully set forth herein.

9. Csukardi has worked for Platinum Corral at its restaurant, Golden Corral, in Lynchburg, Virginia since on or about April 24, 2010.

10. Csukardi was diagnosed with multiple sclerosis ("MS") which is defined as a disability pursuant to 29 C.F.R. § 1630.2(j)(3)(iii).

11. As a result of Csukardi's disability, she experienced and continues to experience flare-ups or an onset of symptoms associated with MS, which worsened and continues to worsen at night.

12. Csukardi has taken medications to cope with the symptoms of her disability.

13. Csukardi's disability substantially limits her major life activities, particularly when she experiences flare-ups, including, but not limited to her ability to stand and/or walk when she experiences vertigo and her ability to see.

14. Platinum Corral knows of, and at all times material hereto has known of Csukardi's disability.

15. Platinum Corral became aware of Csukardi's disability in or about December of 2011 after she was hospitalized as a result of a flare-up.

16. Csukardi's physician(s) recommended that she take a two-week period to recover after her hospitalization in or about November and December of 2011.

17. In or about January of 2012, Golden Corral reduced Csukardi's hours and scheduled her to work only one (1) day per week.

18. Csukardi received a doctor's note dated July 5, 2012 from her neurologist, Dr. Charles Robert Joseph ("Dr. Joseph"), stating that she was unable to work nights shifts because of her medical condition and that she should be allowed to work day shifts only.

19. Platinum Corral had/has record of Ms. Csukardi's diagnosis of MS because she presented her medical note from Dr. Joseph to her managers at Golden Corral, including General Manager Mike Sisk ("Sisk").

20. Csukardi presented several notes with the day-shift restriction from Dr. Joseph to her managers, including, Sisk.

21. Csukardi's managers, with the exception of Sisk, took the notes presented by Csukardi with the day-shift restriction and promised her that the notes would be placed in her personnel file.

22. Sisk refused to take her medical notes and refused to honor the restriction of day shifts only, and stated "I don't have to do what that doctor says," or words to that effect.

23. Despite the availability of day shifts, Sisk removed Csukardi from the one (1) day shift that she was assigned and scheduled her for night shifts only; another server was hired to cover day shifts.

24. Csukardi has submitted an accommodation for day shifts only on at least three (3) occasions since July 2012.

25. Sisk continued and continues to refuse to accommodate Csukardi and schedule her for days shifts.

26. On at least one (1) occasion, Sisk stated to Csukardi, "You are fired. I want to fire you right now. I'm not going to fire you because I feel bad for you because you have that disease," or words to that effect.

27. Platinum Corral regarded/regards Csukardi as having such an impairment or disabled due to her prior hospitalization and absences from work because of flare-ups, and as she continued/continues to experience flare-ups, which generally occurred/occur while she was/is working night shifts at Golden Corral.

28. Despite her flare-ups, Csukardi continued/continues to work as a server at Golden Corral.

29. At all times relevant herein, Csukardi could, and did perform the essential functions of her job with or without accommodation.

30. Believing the reduction in hours to be retaliation for her request to work day shifts to accommodate her disability, Csukardi filed an EEOC Charge alleging discrimination and retaliation pursuant to the ADA in or about March 13, 2013 (back-dated by the EEOC to January 28, 2013).

31. Due to Sisk cutting back Csukardi's work hours, in or about January of 2015, Csukardi began to work at a law firm during the weekdays, but continued to work at Golden Corral on the weekends.

32. In or about February of 2015, she resigned from her position at the law firm in order to work more hours at Golden Corral, which provided more income than her position at the law firm.

33. Csukardi had been told prior to her resignation that she would be provided with more hours at Golden Corral.

34. Csukardi informed Aragon that she resigned from her position at the law firm and that she wanted to work more hours at Golden Corral.

35. However, Csukardi was not given additional hours so, she began accepting shifts from other servers.

36. Sisk then told Csukardi that she could not pick up shifts from other servers, despite having placed no such restrictions on other servers.

37. Sisk scheduled and continues to schedule Csukardi to work weekend shifts only, and even then, she was and continues to be released from work shortly after beginning her shifts; examples of her early release include:

a. Csukardi was released by Sisk at 11:00 AM, shortly after her shift began, when a party of 50 persons was scheduled to arrive to dine at Golden Corral at 2:00 PM that same day;

b. Csukardi was released by Sisk at 11:45 AM, two (2) hours and 45 minutes after her shift began, when another employee, Tavina Graham, offered to leave instead; when asked by Csukardi for the reason for which she was being released, Sisk replied, "We choose cutting … whoever we feel like needs to be cut … ," or words to that effect.

38. Sisk continued and continues to schedule Csukardi for weekend shifts only even though she told him she was and continues to be available to work during the week days.

39. Nonetheless, Sisk refused to schedule her for day shifts on account of what he alleged was her poor attitude, even though she had/has not received a write-up for a poor attitude.

40. On or about February 14, 2013, Sisk issued a write-up for Csukardi after a customer allegedly complained about her service, despite the customers who supposedly complained about Csukardi leaving her a significant tip.

41. A mere four days later, on or about February 18, 2013, Sisk issued a second write-up for Csukardi for another alleged customer complaint about her service.

42. Csikardi denies doing or failing to do anything that would have led to customer complaints.

43. As a result of one of the alleged customer complaints, Sisk suspended Csukardi for one (1) day.

44. When Csukardi asked Sisk for a copy of the write-ups, Sisk stated "What, are you gonna go give the write-up copies to Attorney Reginald Yancey?" or words to that effect.[1]

45. Upon Csukardi's request to see the write-ups, she noticed that portions of the write-ups had been scratched out.

46. Sisk threatened to re-assign Csukardi to the position of line server or cashier, positions that would have resulted in a pay cut for Csukardi, if she received another complaint.

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[1] Reginald Yancey was the attorney for whom Csukardi had previously worked.

47. Sisk knows that as a line server or cashier, Csukardi would likely suffer more frequent flare-ups of her MS because of the requirement that she stand in one position for long periods of time, and she would make less money than she makes as a server.

48. Csukardi has been and continues to adequately perform her job as server with Defendant.

COUNT I
VIOLATION OF THE AMERICAN WITH DISABILITIES ACT, AS AMENDED
DISCRIMINATION

49. Plaintiff incorporates by reference herein the preceding paragraphs of this complaint.

50. Plaintiff is a qualified individual with a disability; she is disabled, has a record of a disability or is regarded as disabled, and she can perform the essential functions of her job, with or without reasonable accommodations.

51. Permitting Csukardi to work day shifts only is a reasonable accommodation under the ADA.

52. Despite competent medical direction, Golden Corral has unreasonably and unlawfully refused to permit Csukardi to work day shifts only.

53. Golden Corral's failure to reasonably accommodate Plaintiff constitutes discrimination against her with respect to the terms, conditions, and privileges of employment in violation of the ADA.

54. As a direct and proximate result of Platinum Corral's discriminatory acts, Plaintiff has suffered compensatory damages, and will continue to suffer loss of

income and employment benefits and other pecuniary loss, as well as emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life.

55. Csukardi requests that this Court declare the actions of Platinum Corral to be in violation of the ADA.

56. Csukardi requests that this Court enjoin Platinum Corral from further acts that violate the ADA.

57. Platinum Corral, specifically General Manager Mike Sisk, acted with malice or with reckless indifference to Plaintiff's federally protected rights so as to support an award of exemplary or punitive damages.

COUNT II
VIOLATION OF THE AMERICAN WITH DISABILITIES ACT, AS AMENDED
RETALIATION

58. Plaintiff incorporates by reference herein the preceding paragraphs of this complaint.

59. Plaintiff was engaged in a protected activity – she opposed Platinum Corral's acts of discrimination made unlawful by the ADA and/or because she filed two (2) EEOC Charges and otherwise assisted and/or participated in the EEOC's investigations.

60. Plaintiff suffered an adverse employment action when Platinum Corral reduced her work hours and suspended her for one (1) day.

61. Plaintiff suffered and continues to suffer an adverse employment action in that Platinum Corral continues to schedule Csukradi to work only on weekends, despite her expressed desire to work more shifts during the week.

62. A causal connection exists between Plaintiff's protected activity and the adverse employment action that she suffered.

63. As a direct and proximate result of Platinum Corral's retaliatory acts, Plaintiff has suffered compensatory damages, and will continue to suffer loss of income and employment benefits and other pecuniary loss, as well as emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life.

64. Csukardi requests that this Court declare the actions of Platinum Corral to be in violation of the ADA.

65. Csukardi requests that this Court enjoin Platinum Corral from further acts that violate the ADA.

66. Platinum Corral, specifically General Manager Mike Sisk, acted with malice or with reckless indifference to Plaintiff's federally protected rights so as to support an award of exemplary or punitive damages.

DEMAND FOR JURY TRIAL

67. Plaintiff demands trial by jury.

RESPECTFULLY SUBMITTED,
WHITNEY CSUKARDI

/s/ Melvin E. Williams
Of Counsel

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